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| 10/541,939 | 07/12/2005 | Hideki Matsui | 052740 | 8618 |
| 38834 7590 04/21/2009 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036 | | | | |
| EXAMINER HWANG, VICTOR KENNY | | | | |
| ART UNIT | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,939

Applicant(s)

MATSUI, HIDEKI

Examiner

VICTOR K. HWANG

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 9 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. the specification does not disclose that adhesive material is applied on "the whole surface" of the base material, as recited in claim 11.

Response to Arguments

3. Applicant's arguments filed January 15, 2009 have been fully considered but they are not persuasive.

Applicant argues that, based upon the Abstract, the adhesive layer in *Shintani* is applied at each end of the fabric with a non-adhesive portion between each ends of the fabric. If one were to consider the drawings of Figs. 1 and 2 in conjunction with the English language translation, one would interpret the adhesive layer as extending along the length of the fabric. Fig. 2 is a drawing of the cross-section A-A of Fig. 1. The adhesive layer extends along the whole length of the fabric, and not only at the ends of the fabric, as argued. It is believed that the

English language machine translation that Applicant is citing language from is perhaps an idiomatic translation.

Suzuki and *Tupper* are not cited for teachings of a stretch tape of stretchable base material of nonwoven fabric or adhesive material applied on the whole surface of the base material at 35 grams per square meters or more, as Applicant argues. *Suzuki* is cited as teaching applying basic cosmetics, such as toiletries and moisturizing lotions, before applying an adhesive tape overnight as part of a disclosed method of reducing wrinkles. *Tupper* is further cited that astringents are used with self-adhesive tapes and other cosmetics, as part of a disclosed method for preventing or minimizing wrinkles.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Shintani* (JP 2002-045232 A) in view of *Suzuki* (JP 09-143026), *Tupper* (US Pat. 3,804,083) and *Krantz* (US Pat. 5,336,219). *Shintani* discloses an apparatus and method for reducing wrinkles, the apparatus comprising a stretch tape that may comprise a stretchable base material 1 of urethane non-woven fabric (paragraph [0006] of English translation) and a sticky adhesive material 2 of acrylic adhesive material (paragraph [0010] of English translation). The stretch tape is applied to the skin surface of a face portion to reduce wrinkles of the face. Portion A of the stretch tape is

stuck to the skin surface and then portion B of the stretch tape is stuck on the skin surface to stretch the wrinkles of the skin from outside of the wrinkles.

Shintani does not disclose that before sticking the stretch tape to the face portion, a moisturizing and astringing pack is applied to the whole face at bedtime (claim 11), and the stretch tape is removed and the moisturizing and astringing pack is washed away on the next day (claim 11), the adhesive material applied on the whole surface of the base material at 35 grams per square meter or more (claim 11).

Suzuki discloses a method of reducing wrinkles comprising applying a wrinkle reducing adhesive tape overnight. Before applying the tape, it is desirable to apply basic cosmetics, such as toiletries and moisturizing lotions (paragraph [0011] of English translation). *Suzuki* does not disclose that the basic cosmetics comprise an astringent.

Tupper discloses that a known method for preventing or minimizing wrinkles is to apply self-adhesive tapes, astringents and other cosmetics so that wrinkles are pulled flat and alleviated at least temporarily (col. 1, lines 11-17).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the stretch tape of *Shintani* at bedtime with a moisturizing and astringing pack and to remove the stretch tape and astringing pack the next day, since *Suzuki* teaches that a wrinkle reducing adhesive tape may be applied overnight and that it is desirable to apply basic cosmetics, such as toiletries and moisturizing lotions before applying the adhesive tape, and since *Tupper* further teaches that it is known to use astringents and other cosmetics when applying a wrinkle reducing stretch tape.

It would have been further obvious to remove the stretch tape the following morning upon awakening and washing the face to remove the moisturizing and astringing pack, since it is a well established morning routine to wash ones face in preparation for daily activities and since *Suzuki* does not teach wearing the tape for an extended time period.

Krantz discloses a stretch tape comprising a stretchable base material 20 of non-woven fabric and a sticky adhesive material applied on the whole surface of the base material, the adhesive material comprising a non-sensitizing acrylic copolymer adhesive in an amount of 42 grams/m². The acrylic adhesive is firm and stable and adheres aggressively to skin without causing irritation.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the stretch tape of *Shintani* in view of *Suzuki* and *Tupper* with acrylic adhesive applied at 35 g/m² or more, since *Krantz* teaches that an acrylic adhesive applied at 42 g/m² provides a firm, stable aggressive adhesion to the skin without causing irritation.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR K. HWANG whose telephone number is (571) 272-4976. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn H. Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victor K. Hwang
Examiner
Art Unit 3764

/V. K. H./
Examiner, Art Unit 3764

/LoAn H. Thanh/
Supervisory Patent Examiner, Art Unit 3764